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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,651	09/26/2003	Alexey V. Ustinov	11090-064-999	1350
20583	7590	10/20/2004	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			CRANE, SARA W	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*Supplemental*  
**Office Action Summary**

Application No.

10/671,651

Applicant(s)

USTINOV, ALEXEY V.

Examiner

Sara W. Crane

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*AW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

The Office action of 29 June 2004 allowed claims 1-10, and rejected claims 11-32. Applicant's representative, Mr. Lovejoy, informed the examiner by telephone that claims 11-32 had been canceled by preliminary amendment. (The instruction to cancel these claims is in the last section of page two of the filing paper titled "Utility Patent Application Transmittal," which is part of the IFW imaged file.) However, the amendment was never entered into the paper which contains the claims itself, so the examiner did not realize that these claims were canceled. The examiner has attempted to cancel these claims by examiner's amendment, and to allow the case, and Mr. Lovejoy has faxed in a copy of the pending claims, containing only claims 1-10, which is current procedure since implementation of the IFW system.

However, apparently the tech support staff is no longer able to enter an examiner's amendment, or to allow a case, unless the case file includes an "official response" from the Applicant, and there does not appear to be any way under the current system to get an "official" date stamp on Applicant's "informal" fax to the examiner. (The papers were submitted to be imaged, but the contractors have not done anything.) Also, apparently the previous Office action, although clearly incorrect, cannot be vacated or removed from status either. It is not clear to the examiner exactly what the problem is, but this Office action is an attempt to navigate this case into a PALM status that will result in being able to process the allowance.

Therefore, this is a "Supplemental Office action," which repeats the rejection of the Office action of 29 June 2004. This Office action is intended to **RESTART Applicant's time for response**, as of the mail date of this Supplemental action.

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Applicant is requested to then file a "formal" response, i.e., by fax to the official response fax number (currently 703 872-9306), or by mail. The listing of claims 1-10 should be sufficient. Even a letter pointing out that claims 11-32 were canceled should also be sufficient.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-32 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-22 of prior U.S. Patent No. 6,728,131. This is a double patenting rejection.

Claims 11-32 were already patented in the parent application.

***Allowable Subject Matter***

Claims 1-10 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Crane, whose telephone number is (571) 272-1652.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist, whose telephone number is (571) 272-1562.



Sara W. Crane  
Primary Examiner  
Art Unit 2811